| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/670,791 | 09/27/2000 | Roland L. Fernandez | MFCP.73074 | 6735 |

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| SAJOUS, WESNER |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2676 | |

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on _09 January 2004_ .

2a)☒ This action is **FINAL**.  2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) _1,2,4-14 and 27-42_ is/are pending in the application.

    4a) Of the above claim(s) _27-42_ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1,2 and 4-14_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____ .

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4)☐ Interview Summary (PTO-413) Paper No(s). _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: .

# DETAILED ACTION

## Remarks

This communication is responsive to the amendment and response filed on

1/09/2004. Claims 3, and 15-26 are canceled. Claims 27-42 are added. As a result,

claims 1-2, 4-14, and 27-42 are currently presented for examination.


## *Response to Arguments*

### 1. *112 2nd Rejections*

With view of the claim amendments, the 112 rejections are withdrawn.

### 2. *102 (e) Rejections*

The Applicants, at page 14, paragraph 2 and page 15, paragraph 1 of the

response, argue that the analogies of equating the graphical component library and the

Applicants' theme handle with Johnson's "item 38 or client" and items "46, 50, 70 and

72" is incorrect and that Johnson's applications 38 do not request a theme handle nor

do they receive a theme handle, and that application 38 is unaware of the appearance

management layer 38.

1.      The Examiner, in response, respectfully disagrees, because in the claim, there is

no true definition of what it is characterized by a component library or a theme handle.

The only definitions associated with these two components are that one issues a

request and the other receives the request; and theme handle is broadly corresponded

with a set of appearance characteristics. In Johnson, it is provided that application 38

interacts with the appearance management layer 40 through a drawing interface 46

(see col. 5, lines 34-38). The application commands the appearance manager layer 40

to draw an object .... The client (corresponding with the application) instructs the

graphics subsystem 56 (which is associated with management 40, see fig. 4) to render

pattern associated with the object (see col. 5, line 65 to col. 6, line 8). In addition,

Johnson at col. 6, lines 5-8, suggests that color/pattern and other data associated with

the object's appearance are returned to the client. By this, it is clear that item 38 of

Johnson is capable to instruct or request data to item 40 as the recipient of the request

data, and item 38 or the client do also has the capability of receiving object's

characteristics from item 40. Further, since the upon the command from item 38, item

46 provide the procedures to item 40 to draw the objects (as implied in col. 5, lines 34-

38), and item 50 will interacts with item 40 to switch between themes that corresponds

with the coordinate designs of the objects and create a visual appearance of the objects

on the display (see col. 6, lines 10-15), items 46 and 50 together meet the broad

definition of the theme handle, which corresponds with a set of appearance

characteristics.

2.      With respect to Applicants' arguments of the "theme handle" (see page,

paragraph 1 and pages 15/16, paragraph 4/1, it is noted that the features upon which

applicant relies (i.e., a reference to an internal structure detailing various information

and properties of the object) are not recited in the rejected claim(s). Although the

claims are interpreted in light of the specification, limitations from the specification are

not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed.

Cir. 1993). Thus, the Applicants' arguments are not persuasive. The rejections to claim

1 and its dependencies are sustained.

With regard to claim 10, it is noted that the above arguments apply as well, since

the argued features are analogous to those of claim 1. This rejection is also sustained.

All other arguments are moot in view of the rejections below.

### *Election/Restrictions*

3.      Newly submitted claims 27-42 are directed to an invention that is independent or

distinct from the invention originally claimed for the following reasons: while claims 1-2,

and 3-14 are drawn to communicating requests between graphical component library

and an appearance manager and classified in class 345 subclass 581, the newly

submitted claims 27-42 are drawn to communicating components between a router and

a Fusion process to determine theme-aware graphical component requests-a subject

classified 345/748. Thus, because these inventions are distinct for the reasons given

above and have acquired a separate status in the art as shown by their different

classification, and because the particulars of claims 1-2, and 3-14 are not required for

claims 27-42, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented

invention, this invention has been constructively elected by original presentation for

prosecution on the merits. Accordingly, claims 27-42 are withdrawn from consideration

as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP §

821.03.

## *Claim Rejections - 35 USC § 102*

3.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act

of 1999 (AIPA) do not apply to the examination of this application as the application

being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

published under 35 U.S.C. 122(b).  Therefore, this application is examined under 35

U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4.      Claims 1-2, 3-14 are rejected under 35 U.S.C. 102(e) as being anticipated by

Johnston, Jr. et al., Pat. No. 6,104,391, hereinafter Johnston.

Considering claim 1, Johnston discloses an analogous system and method for

providing a user with increased flexibility and control over the appearance and behavior

of object on a user interface (see abstract).  In particular, Johnston, at fig. 4, discloses a

method of communicating between a graphical component library (38 or a client) and an

appearance manager (40), comprising:  issuing, by the graphical component library (*38

or the client*), a rendering service request (*as met by items 46 and 56 of fig. 4, see col.

5, line 61 to col. 6, line 8*) for a graphical component (*i.e., an object or icon, see col. 4,

lines 45-47*), the request including at least one component defining parameter[s] (*i.e.,

wherein the defined parameter[s] are deciphered herein as the pieces of code from the*

drawing procedure including object's geometry, see col. 5, lines 36-51, and/or simply

values, see col. 9, lines 1-6); and receiving, by the appearance manager (40), the

rendering service request (46/56) for the graphical component and assigning

appearance characteristics (i.e., attributes including object's behavior, shape, patterns,

and/or color) to the graphical component based upon at least one component

parameters (see col. 5, line 44 through col. 6, line 8). Furthermore, Johnson discloses

issuing, by the graphical component library (38 or a client), a request for a theme handle

(i.e., the functions of devices 46/50, 70 & 72, wherein the theme handle corresponds to

the object's coordinates or properties with reference to a theme file records or

properties or any of the characteristics defined by devices 70 and 72, in association with

theme switch 50 and drawing procedures 46, col. 23, lines 43-59 in light of col. 6, lines

1-38, which) corresponds to a set of appearance characteristics (wherein the

appearance characteristics are defined herein as the theme data resources and/or

theme properties or preferences, see fig. 12, item 72; they can also defined as the

interface geometry elements data and interface behavior elements data, see col. 7,

lines 1-61); receiving, by the appearance manager (40), the theme handle request (46,

50, 70 & 72); identifying, by the appearance manager (40) a theme handle (see col. 24,

lines 53-55); issuing, by the appearance manager (40), the requested theme handle

(46, see col., 6, lines 34-36); and receiving, by the graphical component library ( device

38 or the client), the requested theme handle (see col. 6, lines 10-15, and col. 12, lines

7-24).

Re claim 2, Johnston discloses the claimed "parameters include a part ID and a state ID, and wherein the assigned appearance information is based upon the part ID and the state ID" as met by the functions of device item 46 of fig. 4, i.e., the drawing procedures or pieces of code involving a resource ID per procedure being called (*see col. 7, lines 1-40*), wherein the part ID corresponds to the interface geometry elements data, including list of operational codes (see col. 7, line 60 to col. 8, line 25), and the state ID corresponds to the *interface behavior elements data (see col. 8, line 66 to col. 10, line 40)*. The Applicants should duly note that each one of the above procedures corresponds to a piece of code or ID as defined by device 46.

Re claim 4, Johnston discloses the claimed "theme handle is issued to the appearance manager as one of the parameters in the rendering service request" is met by col. 12, lines 7-21.

Regarding claim 5, Johnston, at figs. 4, and 12, discloses the equivalence for: Issuing, by the appearance manager (40, fig. 4) to the graphical component library (38 or client), a message that a desired appearance characteristics have changed (*as characterized by the depiction at col. 23, lines 43-59, wherein the appearance characteristics are defined by theme properties, 72 of fig. 12*); issuing, by the graphical component library (38 or client) to the appearance manager (40), a request for a new theme handle corresponding to a new set of appearance characteristics (*see col. 23, line 60 col. 24, line 52, particularly col. 24, lines 35-52, and col. 25, lines 27-39, wherein the theme handle is treated herein as a reference to a theme file records or properties or any of the characteristics defined by devices 70 and 72, in association with theme*

*switch 50 and drawing procedures 46)*; identifying, by the appearance manager (40), a

new theme handle identifier (*see col. 24, lines 53-55*); and issuing, by the appearance

manager (40) to the graphical component library (38 or client) the requested new theme

handle (*see col. 25, lines 27-39*).

Re claim 6, Johnston discloses the claimed "requested graphical component is a

control" is met by col. 4, lines 44-47 and/or col.5, lines 58-59.

Re claim 7, Johnston discloses the claimed "one of the parameters of the

graphical component rendering service request is a location for the control" is

characterized by col. 4, lines 48-55.

Claim 8 is for a computer readable medium having computer executable

instructions for performing the steps recited in claim 1. It is therefore, rejected under the

same -rationale set forth above for claim 1.

Claim 9 is for the computer system operable to perform the steps recited in claim

1. Claim 9 is, therefore, rejected under the same rationale set forth above for claim 1.

In addition, Johnston discloses a computer system (see col. 1, lines 24-27) having a

processor (i.e., appearance manager 40, fig. 4) a memory (i.e., pattern look-up tables

48, see col. 15, lines 30-32), and an operating environment (i.e. application 38, fig. 4 or

the operating systems, col. 1, lines 25-27). The Applicants should duly note that every

computer system has a processor, a memory and an operating system environment.

Regarding claim 10, Johnston, at figs. 4 and 12, discloses: issuing, by the

graphical component library (38 or a client), a request for a theme handle (*i.e., the

functions of devices 46/50, 70 & 72, wherein the theme handle corresponds to a*

*reference to a theme file records or properties or any of the characteristics defined by*

*devices 70 and 72, in association with theme switch 50 and drawing procedures 46, col.*

*23, lines 43-59)* corresponding to a set of appearance characteristics (*wherein the*

*appearance characteristics are defined herein as the theme data resources and/or*

*theme properties or preferences, see fig. 12, item 72; they can also defined as the*

*interface geometry elements data and interface behavior elements data, see col. 7,*

*lines 1-61);* receiving, by the appearance manager (40), the theme handle request (46,

50, 70 & 72); identifying, by the appearance manager (40) a theme handle (*see col. 24,*

*lines 53-55*); issuing, by the appearance manager (40), the requested theme handle

(46, see col., 6, lines 34-36); and receiving, by the graphical component library ( *device*

*38 or the client*), the requested theme handle (see col. 6, lines 10-15).

Re claim 11, Johnston, at figs. 4 and 12, discloses issuing, by the graphical

component library (38), a rendering service request (46/56) for a graphical component

(*i.e., an object or icon, see col. 4, lines 45-47*), the request including at least one

component defining parameter (*i.e., pieces of code or drawing procedure, see col. 5,*

*lines 36-43*); and wherein the theme handle (*46/50, 70 & 72*) is issued by the graphical

component library (38 or client) as a component defining parameter (see *col. 23, lines*

*43-59*).

Regarding claim 12, Johnston discloses the equivalence for:

Issuing, by the appearance manager (40, fig. 4) to the graphical component

library (38, fig. 4), a message that a desired appearance characteristics have changed

(*as characterized by the depiction at col. 23, lines 43-59, wherein the appearance*

*characteristics are defined by theme properties)*; issuing, by the graphical component

library (38 or client) to the appearance manager (40), a request for a new theme handle

corresponding to a new set of appearance characteristics *(see col. 23, line 60 col. 24,*

*line 52, particularly col. 24, lines 35-52, and col. 25, lines 27-39, wherein the theme*

*handle is treated herein as a reference to a theme file records or properties)*; identifying,

by the appearance manager (40), a new theme handle identifier (see col. 24, lines 53-

55); and issuing, by the appearance manager (40) to the graphical component library

(38 or client) the requested new theme handle *(see col. 25, lines 27-39)*.

Claim 13 is for a computer readable medium having computer executable

instructions for performing the steps recited in claim 10. It is therefore, rejected under

the same rationale set forth above for claim 10.

Claim 14 is for the computer system operable to perform the steps recited in

claim 10. Claim 14 is, therefore, rejected under the same rationale set forth above for

claim 10. In addition, Johnston discloses a computer system (see col. 1, lines 24-27)

having a processor (i.e., appearance manager 40, fig. 4) a memory (i.e., pattern look-up

tables 48, see col. 15, lines 30-32), and an operating environment (i.e. application 38,

fig. 4 or the operating systems, col. 1, lines 25-27).


## Conclusion

4.        **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action.  In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action.  In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

**Any response to this action should be mailed to:**

**Box**

Commissioner of Patents and Trademarks

Washington, DC 20231

**or faxed to:**

(703) 872-9314, (for technology center 26000 only)

**Or:**

(703) 308-5359 for informal or draft communications, please label "PROPOSED"

or      DRAFT")

Hand-held delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,

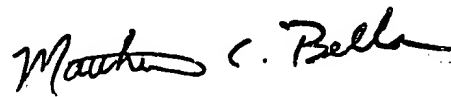Arlington, VA, 6th floor (receptionist).

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Wesner Sajous whose telephone number is (703) 308-

5857.  The examiner can be reached on Mondays thru Thursdays and on alternate

Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Supervisor, Matthew Bella, can be reached at (703) 308-6829. The fax

phone number for this group is (703) 308-6606.


**Wesner Sajous -WS-**

4/11/04

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